

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Per Ogren	Confirmation No.: 2409
Serial No.: 10/519,130	Group Art Unit: Not yet assigned
Filed: December 22, 2004	Examiner: Not yet assigned
For: GRAPHICAL USER INTERFACE FOR EXPANDABLE MENUS	

Date: September 18, 2007

Mail Stop PETITIONS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**PETITION UNDER 37 C.F.R. § 1.137 TO REVIVE UNAVOIDABLY AND/OR
UNINTENTIONALLY ABANDONED APPLICATION**

Sir:

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office ("USPTO"). According to the Notice of Abandonment mailed August 20, 2007, a Notification of Missing Requirements was mailed September 18, 2006 by the USPTO and set a two month extendable time period for response. The date of abandonment is the day after the expiration date of the period set for reply in the Notification of Missing Requirements mailed September 18, 2006.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

1. A reply and/or fee to the Notification of Missing Requirements mailed September 18, 2006 in the form of a Response to Notification of Missing Requirements is enclosed herewith (Tab C). In particular, the Notification of Missing Requirements stated that Applicants must furnish the oath or declaration in compliance with 37 CFR 1.497(a) and (b). However, as noted in the Response, the application meets the requirements for filing a Declaration under PCT Rule 4.17, and therefore, the Notification of Missing Requirements was issued in error.

2. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition

under 37 CFR 1.137(a) was unavoidable, is set forth below.

A. Applicant's representative of record since December 22, 2004, is the law firm of Myers Bigel Sibley & Sajovec, P.A. ("Applicant's representative"). Applicant's representative received a Notice of Abandonment on August 23, 2007, which the USPTO mailed on August 20, 2007. Applicant's representative had no prior knowledge that the application had been abandoned. An additional Notification of Abandonment was mailed August 24, 2007.

B. According to the Notice of Abandonment mailed August 20, 2007, a Notification of Missing Requirements was mailed September 18, 2006 by the USPTO and set a two month extendable time period for response.

C. Applicant's representative did not receive the Notification of Missing Requirements mailed by the USPTO, and only became aware of the Notification of Missing Requirements after having received the Notice of Abandonment.

D. Pursuant to the ordinary course of Applicant's representative's law firm, the office of Applicant's representative receives, carefully inspects, and records each piece of incoming mail onto a mail sheet to record the receipt of incoming mail, and enters correspondence from the USPTO into a computerized docketing system. The mail sheet is generated daily. As proof of Applicant's non-receipt of the mailed Notification of Missing Requirements, Applicant's representative has reviewed and has determined that the Notification of Missing Requirements does not appear in any of the daily mail sheets dated between September 15, 2006 and October 15, 2006 and does not appear in Applicant's representative's computerized docketing system. The mail sheets may include other client confidential information, and consequently, copies of the mail sheets are not provided herewith. However, Applicant's representative will gladly provide redacted copies of the relevant mail sheets upon request.

E. Declarations in Support of this Petition by the U.S. Docketing Administrator, Ms. Phyllis Hines, and by an Administrative Assistant, Ms. Dianna Arnold, who are employees of Applicant's representative are attached as Tabs A and B, respectively. As stated in the Declaration of Ms. Phyllis Hines, Ms. Hines has carefully searched the records of the

docketing system where the non-received mailed Notification of Missing Requirements would have been entered and docketed had it been received, and has determined that the Notification of Missing Requirements was never received by the law firm of Applicant's attorney. Further, as noted in the Declaration of Ms. Dianna Arnold, Ms. Arnold has carefully searched the mail sheets for a receipt period extending from September 15, 2006 through October 15, 2006, and has determined that no document corresponding to the Notification of Missing Requirements for the above-referenced application was recorded therein as having been received.

F. In the normal course of business, Applicant's representative maintains physical copies of all correspondence received from the USPTO in the related patent application file. The undersigned attorney has searched the file itself and the Notification of Missing Requirements was not found therein.

G. Consequently, Applicant has shown that the Notification of Missing Requirements mailed by the USPTO was never received by Applicant's representative.

H. In view of the above, Applicant submits that the entire delay in filing the required reply to the Notification of Missing Requirements from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable.

3. A petition fee of \$500.00 (37 CFR 1.17(l)) is enclosed herewith. Any additional fees believed to be due in connection with this paper may be charged to our Deposit Account No. 50-0220.

4. Because this utility application was filed on or after June 8, 1995, Applicant submits that no terminal disclaimer is required.

5. Applicant accordingly requests that this Petition to Revive Unavoidably Abandoned Application be granted for the above reasons. In the alternative, if the showing of unavoidable abandonment above is deemed unsatisfactory, to expedite the prosecution of this application, it is respectfully submitted that this patent application was unintentionally

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abandoned, and respectfully requested that this application be revived pursuant to 37 CFR 1.137(b). In particular, Applicant submits that the entire delay in filing the required reply from the due date for reply until the filing of a grantable petition under 37 C.F.R. 1.137(b) was unintentional. A reply to the above-noted Notification of Missing Requirements in the form of Response is enclosed herewith. The Commissioner is further authorized to charge any deficiency, or credit any overpayment, to Deposit Account No. 50-0220, including the petition fee required under 37 C.F.R. § 1.17(m), if the showing of unavoidable abandonment is deemed unsatisfactory.

Respectfully submitted,

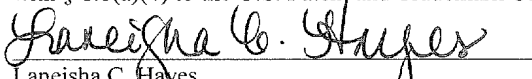


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CERTIFICATION OF TRANSMISSION

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) to the U.S. Patent and Trademark Office on September 18, 2007.


Laneisha C. Hayes
Date of Signature: September 18, 2007

Attorney Docket No.: 9342.6

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Alexandria, VA 22313-1450

DECLARATION IN SUPPORT OF PETITION UNDER 37 C.F.R. § 1.137(a)

Sir:

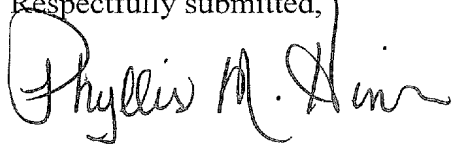
I, Phyllis Hines, am employed by and serve as the U.S. Docket Administrator for Myers Bigel Sibley & Sajovec, P.A., ("MBSS") representative for Applicant. Pursuant to the ordinary course of our business, I receive, carefully inspect, and enter docketing information for every piece of incoming mail from the United States Patent and Trademark Office ("USPTO") into a computerized docketing database system maintained by MBSS. I have reviewed the records of the docketing database system and have determined that there is no record entry indicating that MBSS received the Notification of Missing Requirements mailed by the USPTO on September 18, 2006 in the above matter.

Therefore, based on the above, it is my conclusion that the mailed Notification of Missing Requirements, dated September 18, 2006, was not received by MBSS.

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements, and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

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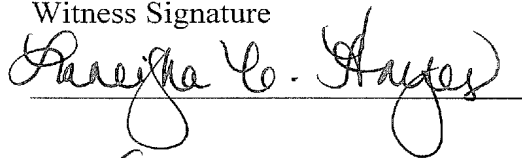
Respectfully submitted,



Phyllis M. Hines, CP, NCCP
National Certified Paralegal
North Carolina Certified Paralegal
U.S. Docket Administrator

Date: Sept. 18, 2007

Witness Signature



Date: Sept. 18, 2007

Attorney Docket No. 9342-6

PATENT

IN THE UNITED STATES DESIGNATED OFFICE (DO/US)

In re: Per Ogren

Confirmation No.: 2409

Serial No.: 10/519,130

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MAIL STOP PETITIONS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

DECLARATION IN SUPPORT OF PETITION UNDER 37 C.F.R. § 1.137(a)

Sir:

I, Dianna Arnold, am employed by and serve as an Administrative Assistant for Myers Bigel Sibley & Sajovec, P.A., ("MBSS"), Attorneys for Applicant. Pursuant to the ordinary course of our business, I carefully inspect all mail received by Myers Bigel Sibley & Sajovec, P.A, and generate therefrom entries in mail sheets to record the receipt of incoming mail by MBSS.

I have caused to be produced copies of our mail sheets for postal records of incoming mail from September 15, 2006 through October 16, 2006 (redacted copies of which available upon request). I have reviewed these mail sheets and determined that no entry exists that would indicate that MBSS received the Notification of Missing Requirements dated September 18, 2006 mailed by the United States Patent and Trademark Office ("USPTO") for the above matter.

Consequently, I have determined from our mail sheet records that we did not receive the Notification of Missing Requirements stated to have been mailed by the Patent Office on September 18, 2006 (Docket No. 9342.6, Serial No. 10/519,130).

Therefore, based on the above, it is my conclusion that the mailed Notice of Missing Requirements, dated September 18, 2006, was not received.

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that

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these statements are made with the knowledge that willful false statements, and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

Dianna Arnold

Dianna Arnold

Date: September 17, 2007

Witness Signature

Freight Co. Hayes

Date: September 17, 2007